

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 1966 of 1991

For Approval and Signature:

Hon'ble MR.JUSTICE J.M.PANCHAL

- =====
1. Whether Reporters of Local Papers may be allowed : NO
to see the judgements?
 2. To be referred to the Reporter or not? : NO
 3. Whether Their Lordships wish to see the fair copy : NO
of the judgement?
 4. Whether this case involves a substantial question : NO
of law as to the interpretation of the Constitution
of India, 1950 of any Order made thereunder?
 5. Whether it is to be circulated to the concerned : NO
Magistrate/Magistrates, Judge/Judges, Tribunal/Tribunals?

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GOVINDBHAI R PONKIYA

Versus

STATE OF GUJARAT

Appearance:

1. Special Civil Application No. 1966 of 1991
MR PV HATHI for Petitioner No. 1
MR MR MENGDE, AGP for Respondent No. 1-2,4
MR RJ OZA for Respondent No. 1
NOTICE SERVED for Respondent No. 2
MR SN SHELAT for Respondent No. 3
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CORAM : MR.JUSTICE J.M.PANCHAL

Date of decision: 04/09/2002

ORAL JUDGEMENT

#. By filing this petition under Article 226 of the

Constitution, the petitioner has prayed to issue a writ of mandamus or any other appropriate writ, or order declaring that the petitioner is entitled to be confirmed as regular appointee from the date of his initial appointment as Lecturer in Geography. The petitioner has further prayed to direct the respondents to grant to the petitioner all consequential benefits, viz, continuity in service, seniority, arrears of pay of vacation, etc.

#. The petition was placed for admission hearing before the learned Single Judge of this Court, and after hearing the learned counsel for the petitioner, following order was passed by the Court on October 11, 1988:

"Rule.

2. Heard the parties with regard to interim relief. By way of interim relief it is directed that the petitioners' services shall not be terminated. If and when regularly selected candidates by G.P.S.C. or any other regular appointees are available and such candidates are required to be appointed in place of the petitioners, it will be open to the respondents to terminate the services of the petitioners. Even otherwise, after filing affidavit-in-reply or at any time after the service of notice of this order it would be open to the respondents to request the Court for modifying and/or for vacating the interim relief. Respondents are directed to file affidavit-in-reply latest before November 30, 1988. Moreover, if there is any other lawful reason for termination of service of the petitioners except on the ground that the period of their ad hoc appointment has expired, the respondent authority will be at liberty to take appropriate steps in accordance with law.
3. Today there are three other similar matters on Board. The learned Counsel for the respondents states that there are other three or four matters filed by different advocates in the same or similar subject matter. Therein also similar interim orders have been passed. Thus there are about seven to eight such matters and in each matter more than one petitioner appear to have filed the petition.
4. The picture that emerges from the record of the petition and from the aforesaid facts is not very happy. In almost all colleges ad hoc appointments are made for fixed time. The aforesaid practice has been deprecated by the Supreme Court in the case of Ratanlal and others

v. State of Haryana and others, AIR 1987 SC 478. In that case the Supreme Court gave directions to the State Government which are contained in para 2 of the judgment, and the same read as follows:

"We, therefore, direct the State Government to take immediate steps to fill up in accordance with the relevant rules the vacancies in which teachers appointed on ad hoc basis are now working and to allow all those teachers who are now holding these posts on ad hoc basis to remain in those posts till the vacancies are duly filled up. The teachers who are not working on such ad hoc basis if they have the prescribed qualification may also apply for being appointed regularly in those posts. The State Government may also consider sympathetically the question of relaxing the qualification of maximum age prescribed for appointment to those posts in the case of those who have been victims of this system of 'ad hoc' appointments."

As far as the State of Gujarat is concerned, it appears that the first matter of this nature came up before this Court on February 22, 1988. Therein this Court (Coram: D.H.Shukla, J.), after admitting the matter, granted interim relief, but made it clear that the petitioners may be displaced by the nominees of G.P.S.C. or by the regular appointees transferred from other places. In subsequent petitions, i.e. special civil application No. 1862 of 1988 and 1971 of 1988 which came up before me on April 15, 1988 similar directions were given by way of interim relief. In the aforesaid two petitions which were admitted by me in the month of April, 1988 it was also directed that the Government should file affidavit-in-reply latest before July 31, 1988. It is candidly stated by the learned counsel for the respondents that so far the affidavit-in-replies have not been filed in the aforesaid matters.

4. It appears that the question which affects the entire academic world is not considered seriously by the Government. The practice of making ad hoc appointments at the college level adversely affects both the teachers as well as the students which consequently penalty in lower standards of education. It is not necessary to

articulate the evils which are being fostered on account of such practice. Suffice it to say that such practice is required to be stopped immediately and should not be resorted to except in rare cases when the administrative exigencies may require.

5. The learned counsel for the respondents states that the Government has already submitted requisition before the G.P.S.C. in February, 1988 and the G.P.S.C. has not taken steps thereafter. Be that as it may. Even if the matter is pending with the G.P.S.C. it is the duty of the Government to see that this state of affairs is not continued further in the academic world, and the matter is pursued vigorously with the G.P.S.C. so that regular appointments are made immediately.

6. In above view of the matter it is further directed as follows:

The Government will take suitable steps immediately to fill up the vacancies, in which teachers are appointed on ad hoc basis and are now working under the protection of the orders of the Court, in accordance with the relevant rules. The process shall be completed as far as possible before December 31, 1988. In case there is any difficulty in completing the process before the stipulated date the respondents shall apply to this Court and seek extension of time stating the reasons for extension and giving details about the steps taken. However, it is hoped that this observation shall not be treated as permission to be lukewarm in completing the process.

7. The office is directed to send a copy of this order to the Secretary, Education Department and the Director of Higher Education. The learned counsel appearing for the respondents is also requested to send a copy of this order to all the concerned authorities.

Sd/-

(A.P. RAVANI, J.)

11-10-1988"

#. During the course of hearing of the petition, the learned counsel for the petitioner has produced a copy of the judgment dated July 15, 2002 rendered by the learned Single Judge of this Court in Special Civil Application No. 2664 of 2001 and other cognate petitions filed by Shah Jolly Chandravadan and others against the State of Gujarat, for perusal of the Court. A bare perusal of the judgment delivered by the learned Single Judge quoted

above makes it evident that the regular selection is already made, and therefore, the interim relief which was granted by the Court on October 11, 1988 stands automatically vacated in view of the judgment of the learned Single Judge.

#. The learned counsel for the petitioner has stated at the Bar that the judgment delivered by the learned Single Judge in Special Civil Application No. 2664 of 2001 and cognate matters is challenged before the Division Bench in Letters Patent Appeal. However, I am of the opinion that in view of the decision rendered by the learned Single Judge, the present petition has become infructuous and deserves to be disposed of accordingly, subject to clarification that the disposal of the petition will not affect adversely the rights of the petitioners flowing from the judgment of the learned Single Judge or the judgment which may be delivered by the Division Bench in Letters Patent Appeal filed against the said judgment.

#. For the foregoing reasons, the petition fails, and is dismissed. Rule is discharged with no orders as to costs. Ad-interim relief granted earlier is hereby vacated. The petition stands disposed of as having become infructuous subject to the clarification indicated hereinabove.

(J.M. PANCHAL, J.)

[SNDEVU]

P.S.